

Proceeding Through Steps

The Political Aesthetics of Legal Subjectivity in the Amtsgericht Mitte, Berlin

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K. went over to the stairway to get to the room where the hearing was to take place, but then stood still again as besides these steps he could see three other stairway entrances, and there also seemed to be a small passageway at the end of the yard leading into a second yard. It irritated him that he had not been given more precise directions to the room, it meant they were either being especially neglectful with him or especially indifferent, and he decided to make that clear to them very loudly and very unambiguously. In the end he decided to climb up the stairs, his thoughts playing on something that he remembered the policeman, Willem, saying to him; that the court is attracted by the guilt, from which it followed that the courtroom must be on the stairway that K. selected by chance.⁰¹

01
Franz Kafka, *The Trial*
(Echo Library, 2007),
42–43.

02
Adolf Klein,
“Die Rheinische
Justiz und der
rechtsstaatliche
Gedanke in
Deutschland,”
in *Recht und
Rechtspflege in den
Rheinlanden*,
eds. Adolf Klein
and Josef Wolffram
(Wienand, 1969),
116–18.

In the popular imagination of the West, courts feature as one of the quintessential spaces in which the modern individual appears as a subject capable of action. Here, the citizen steps into the space of a legal *topos*, which all members of society are able to inhabit while paradoxically remaining unique, singular. Historically, this spatial particularity materializes pointedly, uncomfortably where public spaces are split, re-codified, and functionally differentiated, often concurrently with processes of state-building. For the fractured legal and political orders of the German territories of central Europe, an early point of convergence within this process came with the adoption of the Napoleonic Code in the territories left of the Rhine. Introducing the separation of powers and the institution of public prosecutors, the Code fundamentally re-configured trials, which had previously been based on written correspondence, as public oral proceedings requiring the participation of lay persons.⁰² This expansion of the law’s contiguous spaces created a need for buildings which were not only physically separate from those of other branches of state power, they would also require dimensions which could accommodate both differentiated groups of jurists and

the newly involved public. On top of this real spatial need, these sites were expected to integrate the laity into court proceedings as active participants.



[43] View from inside the staircase between floors one and two.

While the publicness of trials developed in parallel across the fragmented legal orders of pre-imperial nineteenth-century Germany, consolidation of the polity in 1871 reframed calls for a unified jurisprudence as part of nation-state-building. The political goal of imperial unity (*Reichseinheit*) teetered precariously on the technical feasibility of legal unity (*Rechtseinheit*). Codification initially focused on criminal law, finding early achievement in the 1877 passage of the *Reichsjustizgesetz*.⁰³ These laws enshrined the Napoleonic Code's spatial necessities—being public, representative, and separate—as a mandated standard. Civil jurisprudence would only be standardized in all territories of the *Reich* with the introduction of the *Bürgerliches Gesetzbuch* (BGB), which was passed by the *Reichstag* in 1896; coming into effect on January 1, 1900. The BGB was the product of a 25-year quarrel amongst Germany's political factions, which was ultimately settled in favor of liberal-bourgeois interest. Notably, contemporaries characterized the BGB for its un- (though not a-) social bent, which largely privileged the basic rationale of the market.⁰⁴

03
Werner Schubert, "Das Bürgerliche Gesetzbuch von 1896," in *Kodifikation als Mittel der Politik: Vorträge und Diskussionsbeiträge über die deutsche, schweizerische und österreichische Kodifikationsbewegung um 1900*, ed. Herbert Hofmeister (Böhlau, 1986), 11–28.

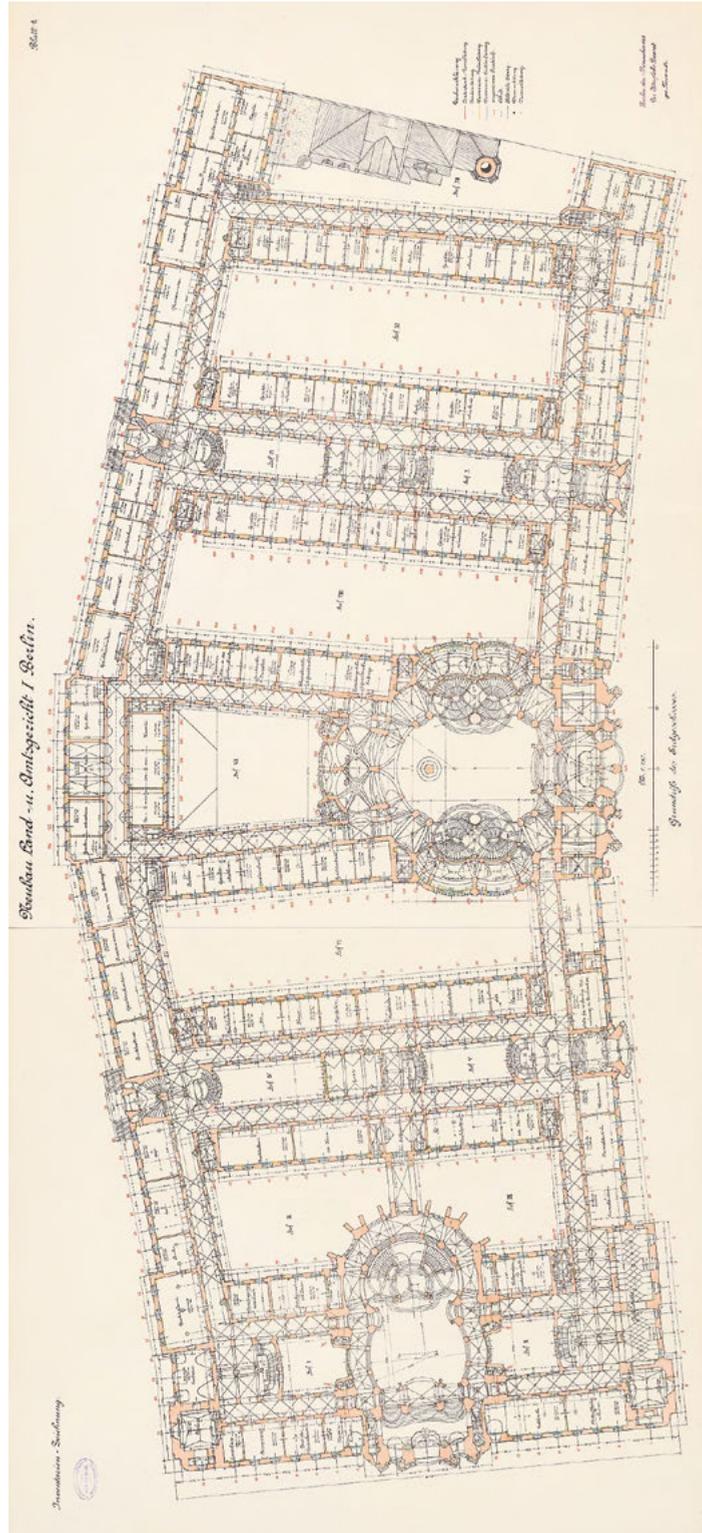
04
See also Hans Schulte-Nölke, *Das Reichsjustizamt und die Entstehung des Bürgerlichen Gesetzbuchs* (Klostermann, 1995), 279–284; Hans-Peter Haferkamp, *Das BGB* (Böhlau, 2023), 108–112.

05

For a concise delin-
 eation of jurisdiction
 see: Otto Kästner,
 "Die Architektur
 deutscher Land-
 gerichte zwischen
 1900 und 1920"
 (PhD diss.,
 Goethe University
 Frankfurt, 2012),
 19–20.

Importantly, the introduction of this novel legal standard anticipated built sites of jurisprudence which were mono-functional and specialized. Civil jurisprudence was newly divided by the dyad of *Land-* and *Amtsgerichte*, with jurisdiction established along the lines of litigious value and the length of potential sentencing. The purview of *Amtsgerichte* extended to cases with a litigious value of up to 300 marks and a commination of up to six months. Cases exceeding these markers moved to the higher civil courts of *Landgerichte*.⁰⁵ Particularly the *Amtsgericht*'s daily workings were taken up by non-contentious matters, such as the registration of property and family relations. Additionally, the land register, matters of estates, and various registries of social and professional unions were kept here. In contrast to the administrative, correspondence-based proceedings of only a hundred years earlier, banal and ordinary legal matters were now governed under the same mandate of publicness which had rewritten criminal proceedings. Particularly in this mundane function, *Amtsgerichte* served as a novel space for civilian and state interaction.

At this historical moment, the state was particularly dependent on the citizen being able to enter into contact with its administrative sites as a legal subject (*Rechtssubject*). State actors conceived of this novel figure, imagined to be liberal and economically rational, as navigating the new, nationwide civil law apparatus autonomously, in pursuit of their own interests. A keen sense that the seamless inhabitation of this role required sites in which it could be rehearsed and realized permeated government. As I will show, architecture, by virtue of its potential for kinetic experience, was understood as a crucial tool for impressing this particularized understanding of the self upon the citizen. Stairwells, the final vestiges of representative space within an increasingly streamlined architecture of administration, were particularly important in this regard. Describing a continuous volume of a building's mass, main stairways served as receptors, condensers, and ushers to the public. As consciously configured spaces of dynamic movement, staircases lent themselves to flourishes of *Gestaltung* by planners. A notable high point of this praxis was reached in the construction of the massive *Amtsgericht* wing at the *Justizpalast* in Berlin-Mitte, located on Littenstraße.



[44] Ground floor plan of the Land- and Amtsgericht Mitte.

06

For an overview see Albert Spitznagel, "Geschichte der Psychologischen Rhythmusforschung," in *Rhythmus: Ein interdisziplinäres Handbuch*, eds. Eckart Altenmüller, Katharina Müller, and Gisa Aschersleben (Huber, 2000), 1–40; Boris Roman Gibhardt, "Einleitung: Zum Widerstreit historischer und systematischer Ansätze in der Rede von Rhythmen," in *Denkfigur Rhythmus: Probleme und Potenziale des Rhythmusbegriffs in den Künsten*, ed. Boris Roman Gibhardt (Wehrhahn, 2020), 9–20.

07

For an introductory overview on Schmarsow see Roland Meyer's entry in Susanne Hauser, Christa Kamleithner, and Roland Meyer, eds., *Architekturwissen: Grundlagentexte aus den Kulturwissenschaften* (transcript, 2011).

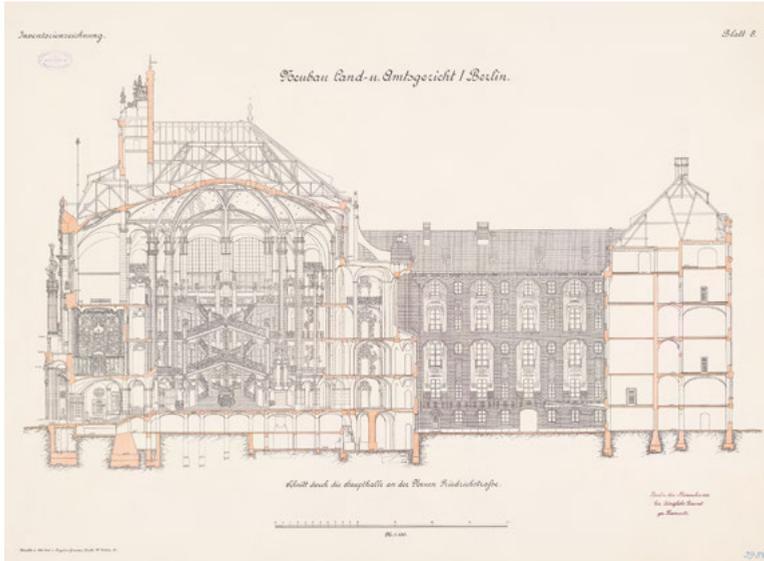
08

Volker Kähne and Klaus Lehnartz, eds., *Gerichtsbäude in Berlin: Eine rechts- und baugeschichtliche Betrachtung* (Haude u. Spener, 1988), 97.

As we will see, one way of understanding this spatial arrangement's peculiar emergence at the nexus of imperial legal standardization and Prussian architectural rationalization is by considering contemporaneous experimental theories of the sensory body's cognitive potential, theorizing a mode of sensory aesthetic experience capable of bestowing psychological and physiological harmony upon the body. This concern for embodiment's epistemic ability—a predicate to much avant-garde thinking in Germany at this time—characterized turn-of-the-century German art history's search for architecture's anthropological and psychological 'last elements.'⁰⁶ Aiming at disciplinary demarcation, thinkers strove to derive essential meta-categories of art from historical observation, which could in turn describe (and judge) artistic production across time and place. Within the field of architectural theory, the German art historian August Schmarsow played a pivotal role in moving the discursive 'constant element' of historical observation from ornament toward the shaping of space as modelled void.⁰⁷ This paper seeks to examine how this paradigm of spatial perception functioned within the larger societal aim of relating subjects to the novel legal order and questions the political potential these spaces rendered.

Amtsgericht Mitte

Along the eastern side of Littenstraße, across from the ruins of Berlin's old Franciscan monastery, the *Amtsgericht Mitte* is housed in a monumental neo-baroque building from the previous turn of the century. The building was completed in two stages between 1896 and 1904 and still houses both a *Land-* and an *Amtsgericht*. The building of the *Landgericht*, a four-winged *corps de logis* completed in the first stage of construction, faced Gruner Straße and was partially demolished in 1968 to allow for the widening of the street.⁰⁸ Today, only the building of the *Amtsgericht* remains, housing both courts. From the frontage along Littenstraße, the building extends to the tracks of the *S-Bahn*, which runs along the back of the building. In its original comb-like structure, these two fronts were connected by seven bisecting tracts, making a total of 12 internal courts.



[45] Cross section of the stairwell pavilion at Neue Friedrichstraße (now Littenstraße).

Even today the view from Littenstraße shows the length and slight concavity of the building's main façade, two formal problems neutralized outwardly through the central pavilion housing the main staircase. A compact structure in which the building's ornament is condensed, the pavilion's façade is marked by three oblong windows. Along with the building's double towers and first-floor pillar-herm, the ornate central section streams upward, counteracting the horizontal breadth of the main façade. The building's portico undulates in several folds, plotting a B-shaped antechamber in horizontal section. From here the visitor is taken into the building's main cavity through a sloped vestibule.

In vertical projection, this interior is dominated by four galleries, which span the circumference of an oblong central air space (*Luftraum*). The viewer climbs to a shallow O-shaped plateau underneath the gallery system and descends from here into the negative of the *Luftraum*. At ground level, a monumental tabernacle once stood as a singular free-standing monument, looming up into the third-floor gallery, punctuating the chamber's axis of symmetry. The staircase's two main stairways lie left and right of this axis, foregrounding the gallery system with which they fuse, leading into the adjoining wings of the building.

09

Schmalz aimed to conduct light into the space so that “schon bei den ersten Schritten in der Vorhalle [the viewer would be drawn with] vollen Blick auf die Hauptlichtquelle, das Fenster.”

Otto Schmalz, “Das neue Land- und Amtsgericht Berlin-Mitte,” *Zeitschrift für Bauwesen* 56, no. 4–6 (1906): 270–76.

10

The *Dezernat's* first director, Karl Friedrich Endell, was explicit about this frugality, particularly as a directive for lower courts. Karl Friedrich Endell, “Ueber Geschäftshäuser für Amtsgerichte und Landgerichte, sowie über die zugehörigen Gefängnisse,” *Centralblatt der Bauverwaltung* II, no. 10 (1882): 89–91.

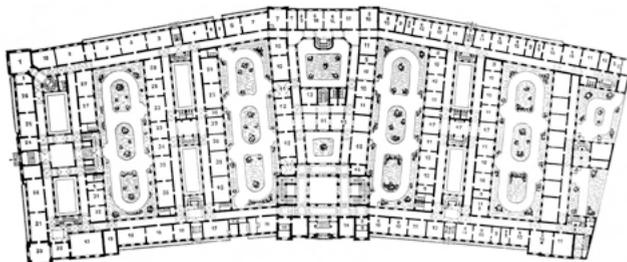
11

Similar entities existed in other German states. The Prussian *Dezernat* was functionally split into an eastern and western department.

The stairways’ unusual shape is drawn from their conch-shaped runs, which wind back on themselves to form a redoubled spiral staircase. At its center, a freestanding diamond-shaped landing gives the ensemble its figure eight curve, which is mirrored in the galleries and the pavilion’s external walls. Here, massive pillars carry the gallery’s weight, allowing the wall to give way to large window areas. Within the building context, the swell of the stairways is dramatically backlit, their dynamic profile cast in stark relief.⁰⁹ This principle of undulation is transposed onto the parapet and waiting halls, forming pockets of repose inside of the space’s transitory whirr. This flamboyant dynamism makes the stairways uniquely difficult to navigate for uninitiated visitors. Orientation is offered only in referencing the air space, not by one’s location in the system itself.

The Administration of Space

It is important to contrast the building’s eclectic dynamism with the efficient, rigid, and centralized authority that planned it, the *Dezernat für Justizbauten*. An early subdivision established in the Prussian Ministry of Public Works (*Preußisches Ministerium der öffentlichen Arbeiten*), the *Dezernat* was not only highly specialized but committed to the frugality characteristic of much Prussian public building.¹⁰ Established shortly after the founding of the imperial polity in 1871, this office was responsible for the planning and oversight of all new construction of juridical buildings across Prussian territories.¹¹ The lack of preexisting spatial forms, as well as practical necessities that remained consistent across projects, encouraged formal repetition within the *Dezernat's* practice.¹² The staircase’s ornate and impractical spatial form thus seems ideologically at odds both with its bureaucratic genesis and with frugality as a general principle of state.





[46]

Ground floor plan of the initial „Entwurfsskizze“ of the *Land- and Amtsgericht Mitte* attributed to Paul Thoemer.

[47]

Façade projection of the initial „Entwurfsskizze“ of the *Land- and Amtsgericht Mitte* attributed to Paul Thoemer.

This deviation seems all the more unlikely when we consider the several rounds of review new construction underwent at the hands of fiscal, political, and architectural actors. Judicial buildings across Prussian territory were commonly first drafted by the *Dezernat*'s long-time director, *Baurat* Paul Thoemer.¹³ Possibly Germany's most prolific architect of judicial buildings at this time, Thoemer has often been considered the sole arbiter of these inherently dynamic planning processes. Thoemer came into office just as the spatial necessity of courts expanded exponentially due to the rapid growth of German urban centers at the turn of the century. While he arguably spearheaded the development of the basic shape of the *Justizpalast* in its Prussian iteration, his decisions were not immune to criticism by his contemporaries. His original designs for the building at Littenstraße are all simple rectilinearity, a quality of both ornament and interior—formally restrained. Functionally staggering the space of the main staircase, Thoemer placed the stairways behind an arcaded courtyard, thereby separating the representative vestibule from the space's transitory function.

- 12 A concise rundown of the typical planning process can be found in Kästner, "Die Architektur deutscher Landgerichte zwischen 1900 und 1920," 41–46.
- 13 Dieter Dolgner, "1918: Paul Thoemer (1851–1918) Architekt," in *Mitteldeutsches Jahrbuch für Kultur und Geschichte 2018*, eds. Gerlinde Schlenker and Harro Kieser (Stiftung Mitteldeutscher Kulturrat, 2018), 136–40.

When the plan came under review by the building academy (*Akademie des Bauwesens*), it was rejected on aesthetic grounds.¹⁴ Noting the staircase's size and form as a problem, the review requested alterations to space and volume befitting the structure's station.¹⁵ Such calls for alterations were not uncommon but rather a standard element of the elliptical review process instituted within the state planning apparatus. First drafts of buildings developed in the *Dezernat* with a projected budget exceeding 500,000 marks were subject to an additional round of review by the Ministry of Public Works. Prestigious projects underwent yet a further review of the plan's artistic quality by the *Akademie des Bauwesens*, whose institutional role forbade it from letting plans pass without comment. For our purposes, it is notable that the *Akademie's* comments here and elsewhere focus nearly exclusively on the building's main staircases, to the exclusion of functional spaces such as clerk's chambers or prosecutor's offices.

Structurally, both the design and the review process focus on the staircase as the most distinct realm of representation within the spatial arrangement of the juridical complex. In the case of the *Amtsgericht Mitte*, alterations following the *Akademie's* review were undertaken by the *Dezernat's* staff architects Rudolf Mönnich and Otto Schmalz, who strove to increase the space's "plastic movement and vivid particularity"¹⁶ (*plastische Bewegtheit und lebendige Eigenart*) through the superior "ability for spatial composition"¹⁷ (*Raumgestaltungsfähigkeit*) of baroque form. As was to be expected, their efforts focused almost exclusively on the building's main staircases.

14 Friedrich Raschdorff, "Entwurfsskizzen zum Neubau eines Geschäftsgebäudes für die Civilabtheilungen des Landgerichts I und Amtsgerichts I in Berlin," *Centralblatt der Bauverwaltung* 16, no. 24 (1896): 261–64.

15 "Diese [the staircases] im praktischen wie künstlerischen Sinne besonders hervorragenden Bautheile, bedürfen noch weiterer Durcharbeitung und sind ihrer Bedeutung entsprechend offener und weiträumiger umzugestalten und durchzubilden," Raschdorff, "Entwurfsskizzen," 261.

16 Schmalz, "Das neue Land- und Amtsgericht," 276.

17 Schmalz, "Das neue Land- und Amtsgericht," 269.

Thinking Space

Mönnich and Schmalz's focus on lively movement dovetails with a shift in architectural discourse exemplified in the writings of the German art historian August Schmarsow. One of the preeminent theorists of architectural space of his day, Schmarsow's writing must be situated within the broad scientificization of art history from 1880 onward. In the process of defining and codifying the discipline's purview and scope, particular attention was paid to excavating its methodological core as the foundation of a new discursive regime. A common *topos* of this effort was the definition of so-called 'elemental terms' (*Grundbegriffe*), an effort now closely associated with the work of Heinrich Wölfflin.¹⁸

Schmarsow first presented his model of architecture as essentially characterized by physical, spatial experience in his 1893 inaugural lecture at the University of Leipzig. This lecture, entitled *Das Wesen der architektonischen Schöpfung*, attempted to link the "natural relation" of "internal man" to his spatial enclosure through architecture.¹⁹ This relationship is described through a structural model that aims to deduce the three dimensions of geometric space from man's bodily and mental constitution.²⁰ The first dimension, height, is derived from the vertical orientation of the body, from man's upright posture.²¹ The source of the second dimension, width, is

- 18 Indeed, much of Schmarsow's thinking was very explicitly developed in opposition to Wölfflin's formulation of *Grundbegriffe* in his habilitation. Andrea Pinotti, "Body-Building: August Schmarsow's Kunstwissenschaft Between Psychophysiology and Phenomenology," in *German Art History and Scientific Thought: Beyond Formalism*, eds. Mitchell B. Frank and Dan Adler (Routledge, 2012), 13–31. The understanding of baroque style Mönnich and Schmalz engage with above is broadly in line with Schmarsow's reading of the era, a counter to Wölfflin's famous paradigm. See also Ute Engel, *Stil und Nation: Barockforschung und Deutsche Kunstgeschichte* (Wilhelm Fink, 2018), 328–31.
- 19 August Schmarsow, *Das Wesen der architektonischen Schöpfung: Antrittsvorlesung, gehalten in der Aula der K. Universität Leipzig am 8. November 1893* (Hiersemann, 1894), 3.
- 20 It is this focus on physiology that makes Schmarsow's thinking here so different from Wölfflin's. See Engel, *Stil und Nation*, 330–33.
- 21 Schmarsow, *Das Wesen der architektonischen Schöpfung*, 15.

22
Schmarsow,
*Das Wesen der
architektonischen
Schöpfung*, 17–19.

23
The original German
reads: “die wichtigste
Ausdehnung für das
eigentliche Raum-
gebilde vielmehr die
Richtung unserer
freien Bewegung,
also nach vorwärts,”
Schmarsow,
*Das Wesen der
architektonischen
Schöpfung*, 16.

the span of the arms outstretched from the body, demarcating its space of dexterity (*Tastraum*).²² The third dimension, depth, is the “direction of our free movement—forwards.”²³ This is anthropologically expressed in man’s stride and gaze, which extend past the *Tastraum* into the *Gesichtsraum* (space of vision).

Though this model of the body is later rephrased in explicitly kinesthetic terms, the early model already builds on a physio-psychological aesthetics of empathy (*Einfühlungsästhetik*), in which perception does not passively register but is rather part of a subconscious, somatic process of comprehension.²⁴ While Schmarsow does acknowledge that spatial perception varies across historical periods and regions, finding and identifying general rules of human behavior and perception advances and upholds a fixed anthropological notion of man as a species-being.

From Space to Subject

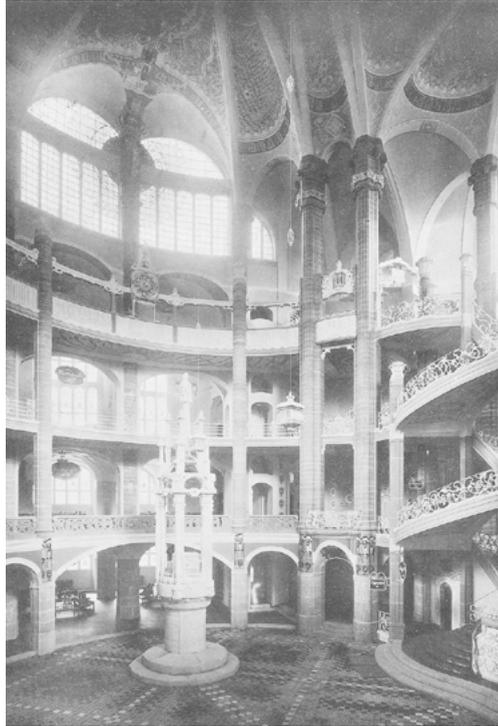
Reading the *Amtsgericht* with Schmarsow elucidates the contradiction noted at the outset. Planners labored under the expectation that they would create spaces that could integrate an unknowing public into the still novel mundane, and largely administrative legal praxis that required the citizen to appear in legal spaces and in person.²⁵ The structure of the review process not only focused on staircases as sites for this presentation to occur, it also encouraged planners to demonstrate a virtuoso command of space. This parallel reading should not suggest that Schmarsow’s conception is the definitive experience of these spaces. Instead, I wish to elucidate the larger *dispositif* or situatedness of planning at this time—not because theory fully explicates the actual architecture, but because it explores how a metaphysics of space shapes and directs what stakeholders of political power considered to be communicable in the medium.

24 Schmarsow draws on and explicitly references Theodor Lipps as an influence on his work here. Schmarsow, *Das Wesen der architektonischen Schöpfung*, 3. Additionally, see Rainer Schützeichel, “Architecture as Bodily and Spatial Art: The Idea of Einfühlung in Early Theoretical Contributions by Heinrich Wölfflin and August Schmarsow,” *Architectural Theory Review* 18, no. 3 (2013): 293–309.

If we approach the *Amtsgericht* through Schmarsow's understanding of architecture, the freestanding tabernacle thus acts as a counterpart to man's uprightness. As an articulation of the dimension of height, it marks upward extension and emphasizes the spatial excerpt through its internal cavity. At the same time, the sculpture moves the viewer into the vestibule's central axis, marked in the diamond floor pattern. This axis is pivotal to Schmarsow's understanding of a subject projected by architecture's enclosure, and he explicitly posits the possibility of the legal subject appearing at this node.

At higher levels of supposition, art creates emanations of an ideal entity; the legal person, the corporation, the municipality, or even an abstract idea derived from state, social or religious communities—a factor of existing civilization, of prevailing cultural work—takes the place of the originally human subject, for example in the courthouse, the Christian place of worship, or the *universitas literarum*.²⁶

- 25 This (shattered) expectation is made explicit in Rudolf Mönnich's statements on the failure of the *Justizpalast* developing as a type, which Mönnich draws from the prevalence of the court's administrative function, see Rudolf Mönnich, "Neue Gerichtsbauten in Berlin und Umgegend: Nach Einem Vortrage des Herrn Reg.-u. Brt. Moennich, Gehalten im Architekten-Verein zu Berlin," *Deutsche Bauzeitung* 41, no. 93 (November 20, 1907): 656: "Es liege das daran, daß unsere Gerichte noch ebenso viel Verwaltungsstätten wie Orte der Rechtsprechung seien, also in unserem heutigen Gerichtsverfahren selbst. Offenbar mache sich aber in diesem z. Zt. ein Zug geltend, der nach breiter Öffentlichkeit, weitestgehender Heranziehung des Laien-Elements strebe. Werde unsere Rechtspflege in diesem Sinne weiter aus- und umgestaltet, dann trete das Geschäftshaus hinter den großen Verhandlungssälen immer mehr zurück, wir würden uns wieder mehr der alten Grundform der Basilika nähern."
- 26 Schmarsow, *Das Wesen der architektonischen Schöpfung*, 16: "Ja, auf höheren Stufen der Supposition schafft die Kunst Ausstrahlungen [sic] einer idealen Einheit; die juristische Person, die Körperschaft, die Gemeinde, oder gar eine abstrakte, aus der staatlichen, sozialen, religiösen Gemeinschaft abgeordnete Idee, ein Faktor der vorhandenen Civilisation, der herrschenden Kulturarbeit vertritt die Stelle des ursprünglich menschlichen Subjekts wie z.B. im Justizpalast, im christlichen Gotteshaus, in der *Universitas literarum*."



[48] View of the stairway and tabernacle.

Blurring the boundaries of the virtuality of the ideal type and the distinct body, Schmarsow sees both emerging at the same spatial point. This coalescence of the universal macrocosm and the microcosm of the human sensory body will become particularly problematic in Schmarsow's conception of the planner's body.²⁷

27 This is not to say that a productive coalescence is impossible here. As Timothy Hyde points out: "Between the two extents of actual individuals and generic humanity, many other modes of embodiment exist, instrumental and readily discoverable in the workings of a variety of disciplines. Among these, architectural history might find direction in another discipline with an equally fundamental recognition of duration: the law. And more specifically, in the manifestations of legal subjectivities, embodiments or legal persons, which attain qualities of duration while retaining models of intention, motive, and desire," Timothy Hyde, "Notes on Architectural Persons," *Aggregate* 1 (2013): 3.

From this location, width, ordered by symmetry and loosely associated with the plane of painting, extends bilaterally from the viewer; it is made palpable in the simultaneous presence of other bodies in space alongside one another, their *Nebeneinander*. In terms of spatial feeling, our static subject in the central axis of the *Amtsgericht* is thus bisected by a lateral plane. Extending left and right of the viewer, this stratum is punctured by and shared with the staircases, particularly the heavy ventilation boilers nestled at the base of the runs. Iconographically, the other bodies appear in the frieze of knights which winds around the ground floor pillars' perimeter.²⁸

The kinetic reorganization of the model is achieved by recontextualizing the third dimension, depth, as the inherent dimension of architecture, governed by the principle of rhythm. This vitalist turn invigorates both Schmarsow's model viewer and the praxis of architecture as a whole. A temporal figure, rhythm itself is resonant in bodily cadences such as breath, heartbeat and the ambulatory nature of walking. But this sense of movement is partly owed to the inherent dynamism of depth within Schmarsow's system. In its transgression of the *Tastraum*, depth shifts the *Nebeneinander* into a *Hintereinander*, moving the mode of perception from calm simultaneity to dynamic succession.²⁹

28 On width see Schmarsow, *Das Wesen der architektonischen Schöpfung*, 17–19. See also Andrea Pinotti, "Rhythmologie in der Kunstwissenschaft zwischen dem 19. und 20. Jahrhundert: Der Fall August Schmarsow," in *Mythos Rhythmus: Wissenschaft, Kunst und Literatur um 1900*, eds. Massimo Salgaro and Michele Vangi (Franz Steiner Verlag, 2016), 41–53.

29 For the passages on rhythm, see August Schmarsow, "Über den Werth der Dimensionen im menschlichen Raumgebilde," in *Berichte über die Verhandlungen der Königlich-Sächsischen Gesellschaft der Wissenschaften zu Leipzig*, ed. Königlich-Sächsische Gesellschaft der Wissenschaften (Teubner, 1896), 55–59; for an elucidating overview, see Björn Spiekermann, "Laokoons Schatten: Bewegung, Sukzession und Rhythmus in der Kunsttheorie August Schmarsows," in *Denkfigur Rhythmus: Probleme und Potenziale des Rhythmusbegriffs in den Künsten*, ed. Boris Roman Gibhardt (Wehrhahn Verlag, 2020), 165–90.

30 Schmarsow, *Das Wesen der architektonischen Schöpfung*, 10–15.

31
Schmarsow,
"Über den Werth
der Dimensionen,"
55–59.

This premier quality of space can be experienced only by traversing it. Schmarsow's architect shapes this experience, derived from the experience of his own embodiment, through the arrangement of the systole and diastole of successive spaces.³⁰ Because of this focus on waxing and waning, transitory spaces as areas of high contrast take on an important role in the designed space. Within Schmarsow's understanding of perception, the subject's movement along the depth dimension produces irregular mental planar images (*Flächenbilder*), which are synthesized into a memory image (*Erinnerungsbild*).³¹ This virtual image, encompassing the totality of a given spatial experience, can be reflected upon as a whole, after the fact, not unlike a piece of music or theatre. It is of this spatial composition and its perception, not the built form itself, that rhythm is a quality.



[49] View from the parapet onto the stairs.

Rhythm as Order

Entering the staircase of the *Amtsgericht Mitte*, the civilian is led from the chaos of unshaped outdoor space through irregular antechambers into the high central air space as seen from below. But the elements most suited to the experience of the depth dimension are the stairways themselves, where the dimension of depth layers itself onto that of height. The run's winding shape repeatedly moves the viewer from confused darkness into interaction with the central airspace and delivers them into a state of clarity in the luminous top gallery enclosed by the vaulted ceiling.

The stairs' eclectic and nonrational shape may be read through Schmarsow's framework as exemplary of man's dimensional constitution, which makes up his immediate relation to the world. In thematizing our own mental organization, architecture is able to transport a certainty of being through its communion with the primal source of the real.³² Architecture as the shaper-of-space (*Raumgestalterin*) as described by Schmarsow, becomes the ultimate pedagogical tool to communicate transcendent truth because it addresses the inherent organization of the body directly.³³ Since architecture is the art most directly geared toward inherent bodily order, it is capable of heightening and addressing this essence from which perception arises. Indeed, this attitude is mirrored in the *Amtsgericht's* original ceiling inscription, stylized as a continuous ribbon of golden letters, which read:

Everywhere above the universe you see the world's governing laws standing in calm grandeur. They enclose the fleeting moment of your being as well as the dead stones of this house. The world of God above you shows itself to you in the harmony of the spheres, in time and space, in the fullness of life and death, the stream of which glides through the sacred hands of the Norns; the world of men beside you in the forms of states and law; your own world within yourself in your conscience and sense of art, beauty, morality. Their work is order; their observance mutual advancement, development, union to the greater whole; their violation carries in itself the penalty of impossibility, of ill-birth, of being outcasts, of annihilation; O man realize this, never forget it, and live by it!³⁴

32
Schmarsow,
"Über den Werth der
Dimensionen," 45–58.

33
In the original
German, Schmarsow
states: "Die architek-
tonische Schöpfung
ist von Anfang an
keine Nachahmung
des menschlichen
Körpers ... sondern sie
ist ein Correlat des
Menschen und zwar
seines ganzen
Wesens." This may be
translated as:
"Architectural
creation is, from the
very beginning, not
an imitation of the
human body ... but
rather a counterpart
to the human in its
very essence,"
Schmarsow,
"Über den Werth
der Dimensionen," 47.

Both Schmarsow and the inscription on the staircase's ceiling work with a common understanding of rhythm at the center of much of European avant-garde thinking at the turn of the century. Broadly conceived of as a transcendent organizing force, rhythm (or ur-rhythm) was a supratemporal drive that permeated both individual interiority and the terrain of the social and natural worlds. As such, it constituted the germ of a total experience. A central tenet of this thinking was that the structuring potential of rhythm had been partially or completely lost in modernity.³⁵ Confronted by this phenomenal lack, its proponents strove beyond rhythm's mere reinstatement, aiming instead to revive and heighten a supposedly pristine, primal 'ur-rhythm.' This narrative of re-introduction gives these projects an inherently pedagogical bent: rhythm paradoxically was a natural constant of human life that nonetheless had to be revived, taught, and communicated. Here, rhythm serves to naturalize both the model of perception and its apparent source in the experience of transcendent order through spatial perception. Before examining the effects of this narrative on the citizen's relationship to the institution, we turn to the question of what exactly this aesthetic moment is doing structurally for the judicial institution it was embedded in and why a rationalized and normative legal order required such flamboyant forms in its most mundane sites.

34 Otto Schmalz, "Das neue Land- und Amtsgericht Berlin-Mitte," *Zeitschrift für Bauwesen* LVI, no. VII-IX (1906): 410: "Überall über dem All siehst du der Welt waltende Gesetze in ruhiger Größe stehen. Sie umschließen den flüchtigen Augenblick deines Seins so gut wie die toten Steine dieses Hauses. Die Welt Gottes über dir zeigt sich dir in der Harmonie der Sphären, in Zeit und Raum, in der Fülle des Lebens und Sterbens, deren Strom durch der Nornen heilige Hände gleitet; die Welt der Menschen neben dir in den Formen der Staaten und des Rechts; die eigene Welt in dir in dem Gewissen und dem Gefühl für Kunst, Schönheit, Sittlichkeit. Ihr Werk ist Ordnung; ihre Befolgung gegenseitige Förderung, Entwicklung, Zusammenschluß zum größeren Ganzen; ihre Verletzung trägt in sich die Strafe der Unmöglichkeit, der Mißgeburt, des Ausgestoßenseins, der Vernichtung; O Mensch erkenne das, vergiß es nie und lebe danach [my translation]!"

35 Gabriele Brandstetter, "Rhythmus als Lebensanschauung: zum Bewegungsdiskurs um 1900," in *Aus dem Takt: Rhythmus in Kunst, Kultur und Natur*, ed. Christa Brüstle (transcript, 2005), 33–43.



[50] The stairway's landing at the top floor gallery.

Seeing the Law

As the aside on the review process has shown, the main staircase of the *Amtsgericht Mitte* was explicitly shaped for representation. Far from being a mere aspect of finesse or imperious ostentation, I would like to consider its representative function in the *Amtsgericht* as a constitutive necessity for institutional legitimacy. Given the legal code's relative novelty, expressing legal order and the individual's role within it was of utmost importance. In this context, the type of the *Amtsgericht* functions as an organizing form, that is, the specific formal association of groups of persons towards the fulfilment of a task or goal.³⁶ In this function, however, it is only one outgrowth of an institutional form; the greater symbolic order underpinned by certain principles.³⁷ Thus the discrete unit of the *Amtsgericht Mitte* is undergirded by the all-encompassing order of the novel, equalizing legal code.

This distinction is taken from the sociologist Karl-Siegbert Rehberg, whose work on institutional stabilization emphasizes depiction and appearance as constitutive necessities of institutional functioning.³⁸ An institution's mechanisms for symbolizing foundational norms and principles serve to stabilize patterns of order, allowing it to guide actions and enact sanctions. Within this paradigm, institutions—such as marriage or the family, which function without rigid delimitation—do not necessarily require a prescriptive organizational form. An organization, on the other hand, must necessarily have institutional forms that represent its goals and constitution because this depiction of principles and claims to legitimacy stabilizes it outwardly.³⁹ This externalizing of principles makes the institution legible to the public while at the same time implicating our citizen-viewer-subject in its structures and co-constituting them in the process.

Beyond this necessity to make the institution legible for an outside public, formulating central ideas acts as an intra-organizational synthesizing process, bundling divergent possible orientations into a fictional unity. It is toward the organizational spirit codified in this process that both the members of the institution and the public feel obligated, so that it serves as an orienting fiction.⁴⁰ The *Amtsgericht Mitte*, as one of the organizational components of the institution of the law, renders legible its central ideas, i.e., the equal and autonomous agency of all citizens under the law and the law's ability

36 I take the terminology in this section from Karl-Siegbert Rehberg's writing on the topic. The term 'organizing form' is my translation of Rehberg's *Organisationsform*, see Karl-Siegbert Rehberg, "Die stabilisierende 'Fiktionalität' von Präsenz und Dauer: Institutionelle Analyse und Historische Forschung," in *Institutionen und Ereignis: Über Historische Praktiken und Vorstellungen Gesellschaftlichen Ordnens*, eds. Reinhard Blänkner and Bernhard Jussen (Vandenhoeck & Ruprecht, 1998), 390.

37 Karl-Siegbert Rehberg, "Institutionen als symbolische Ordnungen: Leitfragen und Grundkategorien zur Theorie und Analyse institutioneller Mechanismen," in *Symbolische Ordnungen: Beiträge zu einer soziologischen Theorie der Institutionen*, ed. Hans Vorländer (Nomos, 2014), 66–68.

38 Rehberg, "Institutionen als symbolische Ordnungen," 43–45.

39 Rehberg, "Institutionen als symbolische Ordnungen," 55.

to institute beneficial social order. However, these ideas are not simply expressed by an analogous signifier but re-presented, making institutional order imminently present.⁴¹

In reading the *Amtsgericht* with Schmarsow, we can see the *Raumkomposition* of the staircase as the central idea of autonomous, sovereign pursuit of self-interest with the structure of the law made present in the immediacy of heightened spatial perception. Following this reading, the role of the temporality of experience within an institutional logic of generating legitimacy can be glimpsed; it symbolizes the presence of institutional time on the temporal plane of primal rhythm.⁴² Extending through the spatial arrangement of the staircase, it is the prerequisite of experience as conceived by Schmarsow, undergirding the co-constitution of man and space.

In the plans for the *Amtsgericht*, the order of the law is not represented but made imminently perceptible and therefore plausible in the experience of order both within and without. The theoretical benefit of this projection lies not only in its strong truth claim and self-evidence (*Evidenz*) but also in its pre-reflexive communication of order. The immanence of aesthetic experience is here taken to affect all subjects in the same way, while Schmarsow's dimensional model claims to bring this realm of experience under unchanging, rational rules.⁴³ Not reliant on an educated subject capable of identifying iconographies, the *Einfühlungsästhetik* engaged here equally refuses to simply obliterate the viewer through opulent spectacle. Instead, planning references a mode of

- 40 This process of codifying and synthesizing divergent potential definitions of the institution draws heavily on the concept of "guiding differences" (*Leitdifferenzen*), for which Rehberg in turn draws heavily on Saussure and Luhmann. Rehberg, "Institutionen als symbolische Ordnungen," 66–68; Rehberg, "Die stabilisierende 'Fiktionalität' von Präsenz und Dauer," 389–99.
- 41 Rehberg takes this notion of presence directly from Hans Ulrich Gumbrecht, with whom he was in close contact, see Rehberg, "Institutionen als symbolische Ordnungen," 197, and Hans Ulrich Gumbrecht, "Zehn kurze Überlegungen zu Institutionen und Re/Präsentation," in *Präsenz*, Hans Ulrich Gumbrecht (Suhrkamp, 2012), 213–22.
- 42 See Rehberg, "Die stabilisierende 'Fiktionalität' von Präsenz und Dauer," 399–400, and Rehberg, "Institutionen als symbolische Ordnungen," 56–57.

aesthetic perception meant to heighten an inner sense of self. The offer of individuation presented by the experience of the *Amtsgericht* thus engenders the possibility of the private legal subject as they are found at the basis of liberal civil law.

Order and Orientation

What this examination has shown is not only how virtuality was an important plane on which the broader *dispositif* of planning saw representation occurring, but also the stabilizing role this plane of immanence could serve in an institutional context. In its more fantastical flourishes, the staircase serves to orient the viewer toward a distinct mode of self-perception with an imbricate organizational mode. This virtual space is engendered in the built environment, but as we have seen in the ceiling's inscription, these are presumed by planners to be not merely contiguous but identical. Conceptions of the planning phase are presumed to materialize unchanged into physical space, which in turn can be perceived *in toto* by the building's real-world users. This conception of planning correlates to Schmarsow's conception of the planners' sensory body, which becomes his tool for imagining 'correct' enclosure through architecture, in turn serving as the base of his practice.⁴⁴ Importantly, Schmarsow takes this act of enclosure to function unchanged for both real and ideal subjects.⁴⁵

Schmarsow's architectural model presupposes a leap from the physical into a charged virtual space, as we have seen in the transcendent moment of *Einsicht*. If we follow the immanent relationship between built world and

43 The role of historical and local variability of perception in Schmarsow is astutely described in Johanna Gullberg, "Voids and Bodies: August Schmarsow, Bruno Zevi and Space as a Historiographical Theme," ed. Branko Mitrovic, *Journal of Art Historiography* 14, no. 1 (2016): 1–20.

44 This is the statement at the core of Schmarsow's famous dictum of architecture as space creator: "Raumgefühl und Raumphantasie drängen zur Raumgestaltung und suchen ihre Befriedigung in einer Kunst; wir nennen sie Architektur und können sie deutsch kurzweg als Raumgestalterin bezeichnen," Schmarsow, *Das Wesen der architektonischen Schöpfung*, 11.

45 In the original German he speaks of "unserm Princip, der Raumumschließung eines wirklichen oder idealen Subjekts." Schmarsow, *Das Wesen der architektonischen Schöpfung*, 30.

physio-psychic experience as envisaged by Schmarsow, we can see how this reciprocity is split here to accommodate the legal order grafted upon it. In the ceiling inscription's interlocking realms, the subject of architecture and the subject of law become permutations of each other. This transposition shifts the imagined relation between space and man into a situation where man is not simply made aware of his own organization but is produced in his ideal relation to the law. Our attention here returns to the novelty of the legal space of the *Amtsgericht* at this historical moment. The territorial expansion of the legal code, the ideological role played by legal equality within the project of imperial unity, and the means by which representation addresses an imminent, sensory human capacity lead us to ask what the political implications of this orienting subjectivity are and whether they are conducive to political action. In short, we turn to the experience of this space and inquire about its political implications in both its virtual and actual articulations.

Despite the virtuality of Schmarsow's orienting schema, we want to inquire after its meaning and how its experience by actual users shapes a notion of the citizen's role in the *Rechtsstaat*. The attempt at making the legal code's revisions, aimed at creating comparability among diverse citizens, palpably precipitates in the relation of citizen-viewer to the legal order set by the space of the staircase. The figure of the law that emerges here characterizes the citizen-viewer through their sameness before it. This is formally mirrored in aesthetic experience, as posited by Schmarsow, which emphasizes sameness based on bodily givenness and metabolism. The sensory experience of architecture is thus an anthropological constant, the "common fate of all men [which] arises out of the human condition."⁴⁶ If we inquire after the political potential of this rush of sameness, we must see that:

From the viewpoint of the world and the public realm, life and death and everything attesting to sameness are non-worldly, antipolitical, truly transcendent experiences.⁴⁷

Although the *Amtsgericht* thus fulfilled the demand that new court buildings be public spaces, this relation did not materialize the implicit democratic arrangement we may associate

46
Hannah Arendt,
The Human Condition,
(University of Chicago
Press, 2010), 215.

47
Arendt,
Human Condition,
215.

48
Arendt,
Human Condition,
178.

49
Arendt,
Human Condition,
198.

50
“Thus action not only
has the most inti-
mate relationship to
the public part of
the world common to
us all, but is the one
activity which
constitutes it,”
Arendt,
Human Condition,
198.

with the category today. This arrangement towards trans-
cendence over plurality reveals the planning *dispositif's* reaction-
ary core. In striving for unity, Schmarsow's anthropological
model reduces the plurality of society to the supposed bodily
sameness of its members. Within this paradigm, architecture's
ability to make meaning arises from and is reflexive of this
sameness, which it strives to ennoble. But Arendt's mus-
ings on transcendence here return us to the political reality of
other people, since she sees the experience of transcendence
as oppositional to that of plurality. This core reality of po-
litical life, whose emergence must be guaranteed for politics
to occur, describes the condition of “living as a distinct and
unique being among equals.”⁴⁸ Within this reality, *men qua*
men actualize in speech and action, where “I appear to oth-
ers as they appear to me.”⁴⁹ Arendt refers to this appearing
as spatial, because the extension of plural selves generates a
relational in-between.⁵⁰

The virtual space antecedent to legality generates
fungible subjects, without producing equal but distinct indi-
viduals in the mode of democratic politics. Despite the ten-
uous nature of this virtuality the space does carry political
implications in its actual form.⁵¹ Entering the staircase sys-
tem, we have already noted its tendency toward confusion,
without wanting to overextend this as a romantic metaphor,
we merely note that our observation has left us as a singular
being, thrown back on ourselves, navigating the built world.
This incidental quality is indicative of the nature of power in
the space. The subcutaneous communication of this mean-
ing—the tactility Benjamin notes as architecture's character-
istic—becomes explicit where the orienting fiction of tran-
scendent space is gleaned, most clearly in the inscription.⁵²
Eliciting attentive engagement in an altogether different mode
of reception, open to contemplation, the appearance (*das Auf-*
scheinen) of the ideal doesn't produce a place or subject to
serve as its counterpart.⁵³ This is true even in the ostensi-
bly communal spaces of the waiting halls. Where reception
changes from diffused (*zerstreut*) to attentive, the stairway's
orientation opens an endless expanse toward a celestial hori-
zon which remains categorically elusive.

It is into this space that the viewer's alienation arises. The transcendent relation—as we have seen in Arendt and as the staircase shows us—is monodirectional; the viewer strives toward it. Transcendence serves as a horizon and the orientation toward it is laden with a spatiality itself, even where it only blinks into existence.⁵⁴ Unlike the Arendtian *in-between*, the infinite *toward* of the transcendent, which the extension of the staircase's space already implies (albeit imperfectly), still marks a power relation. If we think transcendence from the subject position, the void of its categorical remoteness describes a fixed place apart from power, which it can yearn for but never inhabit.

- 51 Arendt sees the enclosure of the law and built structures as important stabilizers, though not guarantors, of the speech and action which characterize and take place in the public realm: "It is as though the wall of the polis and the boundaries of the law were drawn around an already existing public space which, however, without such stabilizing protection could not endure, could not survive the moment of action and speech itself," Arendt, *Human Condition*, 198.
- 52 Walter Benjamin, *Das Kunstwerk im Zeitalter seiner technischen Reproduzierbarkeit* (Suhrkamp, 2020), 69–73.
- 53 It is important to caveat the reading I advance here with the latent possibility of political action, which cannot fully be prohibited by the built world itself. As Jan-Werner Müller points out: "spaces do not determine human conduct (even if behavior can recodify the meaning of spaces); but how spaces enable (and disable) movement, and how they create particular flows, is usually intentional and carries political meaning," Jan-Werner Müller, "Just How is Architecture Ideological?," *Journal of Political Ideologies* 28, no. 3 (2023): 418.
- 54 As the choice of terminology already implies here, this relationship is structured this way in part because meaning is made from a tertiary position external to the relation. The intentional object here is the citizen-viewer who appears against the horizon of transcendent order. To attempt to inhabit this position in the actual situation of the staircase requires the citizen viewer to view himself from afar.